UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Ref: 8MO

March 20, 1996

Bureau of Land Management
Worland District Office
Att: Don Ogaard, Project Manager
P.O. Box 119
Worland, Wyoming, 82401

Re: **Express Crude Oil Pipeline Final Environmental Impact Statement**

Dear Mr. Ogaard:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency, Region VIII, Montana Office (EPA) has reviewed the Express Crude Oil Pipeline Final Environmental Impact Statement (FEIS).

The EPA is pleased with certain aspects of the preferred alternative such as incorporation of the fish and wildlife construction timing limitations in Montana, and use of directional drilling techniques for pipeline crossings of the Missouri River, Milk River and Arrow Creek.

We are concerned, however, about the uncertain status regarding use of directional drilling for the Yellowstone River pipeline crossing, and the rejection of directional drilling for other major river crossings due to costs. Directional drilling allows for potentially less damaging pipeline crossings of rivers and streams. As noted in the FEIS (page 2-9) open cutting of a trench through a river crossing may require a wide ditch since the side walls of the ditch are likely to be unstable in alluvial material. Such a trench could have substantial short-term effects on water quality and fisheries due to greatly increased sedimentation from the construction process. We note that the active channel of the Yellowstone River is 1,050 feet wide at the crossing (page O-25).

We believe that the value of the aquatic resources to be protected in the Yellowstone River (i.e., through elimination of disturbance to stream bed and banks, and no sediment increases) justify directional drilling. We agree with the DEQ's suggested downstream relocation of the Yellowstone River pipeline crossing to facilitate directional drilling. We also believe that it would be reasonable to include a caveat similar to that proposed

for the Missouri River (i.e., if three separate attempts at directional drilling of the Yellowstone River fail, consideration of open trenching techniques be allowed, following appropriate permitting procedures).

We also believe that other major rivers with active wide channels and higher late season flows, and significant fisheries, sensitive to sedimentation effects, should be given great consideration for directional drilling (e.g., Clarks Fork of the Yellowstone, Rock Creek, Shoshone River, Greybull River, Big Horn River). Directional drilling should not be eliminated from consideration simply because of increased costs.

Appendix O indicates that the Clarks Fork of the Yellowstone has a substantial (Class III) fishery resource and a 180 feet wide active channel, and Rock Creek has a moderate (Class IV) fishery resource and a 150 feet wide active channel. Table 12 (page 3-39) indicates that the Shoshone River is 125 feet wide and has Class III fishery; the Greybull River is 90 feet wide and has a Class IV fishery; and the Big Horn River is 200 feet wide and has a Class IV fishery.

Directional drilling would reduce adverse impacts to these streams and to adjacent wetlands. Directional drilling should not be dismissed simply due to increased costs. The environmental values and amenities of these aquatic resources need to be given adequate consideration along with monetary costs.

We don't believe that less expensive construction techniques that contribute sediment to rivers should be utilized at the expense of aquatic resources. If such damaging techniques are utilized we believe that efforts should be made to mitigate the adverse effects. We believe appropriate mitigation to provide compensation for the adverse impacts of sedimentation during trench construction should be provided (e.g., vegetative stabilization of eroding banks, fisheries enhancement). We note that EPA has on occasion asked that a portable suction dredge be used to remove sediment from spawning areas after construction activities resulted in large amounts of sediment delivery to a stream (due to inadequate sediment and erosion control practices).

We are also concerned about the very brief response to EPA's comment on the DEIS regarding impacts to wetlands. We are concerned about the cumulative impacts of disturbances to the many wetlands along the proposed 515 mile pipeline routing. We are not convinced that impacts to wetlands from construction of the pipeline will necessarily be brief, and that the construction and rehabilitation methods identified in Appendix B of the FEIS will assure that no net loss of wetland functions and values occurs in accordance with National Wetlands Policy. Functional assessments of impacted wetlands have not been carried out.

Some adverse pipeline construction related impacts to wetlands are likely to persist for several years, at least until vegetation is reestablished. We are also concerned that there may be some long term impacts from the proposed pipeline construction along the 75 foot wide (and sometimes wider) 515 mile corridor at some of the wetlands sites (i.e., from inadvertent dredging and filling during construction, spills during operation, disturbances to wildlife, inadequate wetland reestablishment or revegetation after construction, etc.).

We note that the long term goal of our Nations Wetlands Policy is to increase the quality and quantity of the Nations wetlands resource base. We do not believe that this goal will be attained by accepting temporal losses and cumulative piecemeal wetland functional losses along a 515 mile pipeline route without any mitigation or compensation.

We believe that compensation should be provided for the temporal and potentially longer term wetland functional losses. We believe creation of wetlands, or restoration and enhancement of wetlands along the pipeline routing should be developed to offset the temporal functional losses and to increase the quantity and quality of the Nations wetlands resource base in the long term. It would appear that opportunities for wetland enhancement and creation would be available during construction while heavy equipment is on site for the pipeline construction (e.g., excavations that could create wetlands).

An acceptable wetland mitigation plan that provides for adequate replacement of wetland functions and values lost as a result of implementation of the Express Pipeline Project should be prepared. It should contain a statement of goals, a monitoring plan, long-term management/protection objectives and a commitment to conduct additional work, if required, to meet the goals of the plan.

Considering all of the concerns associated with potential impacts to aquatic resources the EPA intends to ask the U.S. Army Corps of Engineers to use its discretionary authority to require and an individual 404 permit authorization for the proposed dredging and filling activities in waters of the United States for the entire project. We believe that the cumulative adverse impacts of the numerous river, stream and wetland crossings of this 515 mile crude oil pipeline will have more than minimal individual or cumulative adverse impacts. It is not appropriate to authorize such extensive dredging and filling activities along a 75 foot wide (and sometimes wider) 515 mile long corridor using nationwide permits that are intended to authorize dredge and fill activities that have only minimal individual and cumulative adverse impacts.

We believe that an integrated comprehensive 404(b)(1) analysis of all Express pipeline crossings of rivers, streams, and wetlands would be preferable to piecemealing 404

authorizations between nationwide permits and potential individual permits on major stream crossings. It may be appropriate for 404 administrative reasons and differing State requirements to keep Montana and Wyoming 404 permitting activities separate (i.e., individual Montana and Wyoming 404 permits), however, the Federal permit process should be consistent. The alternatives analysis required by the 404(b)(1) Guidelines should assure appropriate scrutiny and analysis on individual river and wetland pipeline crossings.

Finally, we are pleased that a detailed outline for a Spill, Prevention, Containment and Control Plan (SPCCP) was included in the FEIS, and that an improved description and disclosure of proposed pipeline leak detection equipment and monitoring systems, spill response procedures, and the likely volumes of potential leaks and spills of petroleum product into the environment were included in the FEIS. We recommend that high sensitivity shut-in leak tests also be performed at least at monthly intervals to identify the possible occurrence of a small leak. On the ground inspection of the pipeline using portable hand held hydrocarbon monitors is also recommended minimally on a biannual basis.

We appreciate the opportunity to review and comment on this FEIS. If you have any questions please you may call Mr. Steve Potts (NEPA reviewer) or Mr. Dick Blodnick (404 permit reviewer) of my staff in Helena at (406) 441-1140 exts. 232 and 231, respectively. Mr David Ruiter of our Denver Office will be reviewing 404 permits for river, stream, and wetlands crossings in Wyoming. Mr. Ruiter can be reached at (303) 312-6271. Thank you for your consideration.

Sincerely,

Robert L. Fox jr

John F. Wardell,
Director
Montana Office

cc: Carol Campbell/Felicia Renick, EPA, Denver, 8EPR-EP
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